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CASE LAW UPDATE

Unconditional Stipulation on Medical Care Detrimental to E/C

In Marin v. Aaron's Rent To Own, 2010 WL 4909235 (Fla. 1st DCA, 12/3/10), the E/C agreed in a pretrial stipulation that it would furnish Claimant a psychiatrist in the country of Colombia. The agreement was without conditions or contingencies. The E/C later sought to amend the pretrial stipulation and to add the defense of medical necessity. In the merit order which followed, the JCC concluded that the E/C should provide a psychiatrist but only “upon referral” from Claimant's authorized treating orthopedist. In reversing the JCC's order, the 1st DCA held that adding the terms “upon referral” constituted a modification of the agreement contained within the pretrial stipulation. Importantly, although the rules of workers' compensation procedure allow a party to amend its pretrial statement whenever such amendment is approved by the JCC, these administrative rules do not alter substantive law governing the binding nature of stipulations and agreements. Justice Kahn in his dissent commented that this stipulation relieved the Claimant of the burden to demonstrate medical necessity under the statute.

Discussion: Exercise great care in drafting a stipulation, and be sure to include terms that limit the effect of the agreement.

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